

**7259. Misbranding of poultry and dairy feed. U. S. v. The Early & Daniel Co. Plea of nolo contendere. Fine, \$300.** (F. D. C. No. 12601. Sample Nos. 33140-F, 33241-F, 33243-F to 33246-F, incl.)

**INFORMATION FILED:** November 1, 1944, Southern District of Ohio, against the Early & Daniel Co., a corporation, Cincinnati, Ohio.

**ALLEGED SHIPMENT:** On or about November 2 and December 11, 1943, from the State of Ohio into the State of Maryland.

**LABEL, IN PART:** (Tags) "Tuxedo Broiler Mash [or "Egg Mash," "Dairy 33%," or "Special 24% Dairy"]."

**VIOLATION CHARGED:** Broiler Mash, misbranding, Section 403 (a), the following statements on the tags, "Guaranteed Analysis Protein—(Minimum) 18.0% [or "18½%"]," were false and misleading since the article contained protein in amounts varying from 14.39 percent to 15.27 percent.

Egg mash, misbranding, Section 403 (a), the statement on the tags, "Guaranteed Analysis: Protein—(minimum) 20.00%," was false and misleading since the article contained protein in amounts varying from 17.64 percent to 18.08 percent.

Special 24% Dairy and Dairy 33%, misbranding, Section 403 (a), the following statements on the tags of the respective articles, "Guaranteed Analysis: Protein . . . (minimum) 24.00%," and "Guaranteed Analysis Protein . . . (minimum) 33.00%," were false and misleading since the former article contained protein in amounts varying from 20.45 to 20.62 percent, and the latter article contained protein in amounts varying from 26.24 to 26.50 percent.

**DISPOSITION:** December 6, 1944. A plea of nolo contendere having been entered on behalf of the defendant, a fine of \$50 on each of 6 counts, a total of \$300, was imposed.

**7260. Adulteration and misbranding of soy bean oil meal. U. S. v. Soya Processing Co. Plea of guilty. Fine, \$400.** (F. D. C. No. 12623. Sample No. 33251-F.)

**INFORMATION FILED:** November 14, 1944, Northern District of Ohio, against the Soya Processing Co., a corporation, Wooster, Ohio.

**ALLEGED SHIPMENT:** On or about April 25, 1944, from the State of Ohio into the State of Maryland.

**LABEL, IN PART:** "Wooster Brand Soy Bean Oil Meal Guaranteed Analysis Protein 41% Minimum."

**VIOLATIONS CHARGED:** Adulteration, Section 402 (b) (2), a mixture of soy bean oil meal and calcium carbonate had been substituted in whole or in part for soy bean oil meal, which the article was represented to be.

Misbranding, Section 403 (a), the statements, "Guaranteed Analysis" and "Protein 41% Minimum," were false and misleading since the product contained not more than 37.05 percent of protein; and, Section 403 (i) (2), it was fabricated from two or more ingredients and its label failed to bear the common or usual name of each such ingredient, since the article contained 6.32 percent of calcium carbonate and the label failed to bear the name of that ingredient.

**DISPOSITION:** December 5, 1944. A plea of guilty having been entered, a fine of \$200 on each of 2 counts was imposed.

**7261. Adulteration and misbranding of Vitapep Dog Food. U. S. v. 10 Cartons of Vitapep Dog Food (and 1 other seizure action against Vitapep Dog Food). Decrees of condemnation and destruction.** (F. D. C. Nos. 14622, 14702. Sample Nos. 61849-F, 73935-F.)

**LIBELS FILED:** On or about December 6 and 7, 1944, Northern District of Texas and District of Arizona.

**ALLEGED SHIPMENT:** On or about September 26 and October 18, 1944, by the Vitapep Products, Inc., from Los Angeles, Calif.

**PRODUCT:** Vitapep Dog Food: 10 cartons, each containing 12 1-pound, 10-ounce bags, at Phoenix, Ariz., and 107 5-pound bags and 591 26-ounce bags, at Dallas, Tex.

This product contained a substance (the identity of which was not determined) that was deleterious and injurious to dogs.

**LABEL, IN PART:** "Kibbled Vitapep Dog Food."

**VIOLATIONS CHARGED:** Adulteration, Section 402 (a) (1), the product contained an added deleterious substance that may have rendered it injurious to health.

Misbranding, Section 403 (a), the label statements, "Vitapep," "The Ideal Ration," "is nutritious," "is healthful because all the ingredients that go into this product are proportionately balanced to insure your dog's health," and "makes an ideal mixture for small dogs and puppies \* \* \* are good for a dog \* \* \* they clean and strengthen the teeth and aid the flow of gastric juices," were false and misleading as applied to the product, which, when fed, caused deleterious effects; and, Section 403 (f), the information required by law to appear on the label was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices in the labeling) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

**DISPOSITION:** December 27, 1944, and February 9, 1945. The Vitapep Products, Inc., owner, having admitted the allegations of the libel against the Dallas lots, and no claimant having appeared for the lot at Phoenix, judgments of condemnation were entered and the product was ordered destroyed.

### FISH AND SHELLFISH

**7262. Adulteration of frozen ocean perch fillets. U. S. v. Rodney E. Feyler (Feyler's). Plea of guilty. Fine, \$200. (F. D. C. No. 12545. Sample No. 20033-F.)**

**INFORMATION FILED:** July 31, 1944, District of Maine, against Rodney E. Feyler, trading as Feyler's, Rockland, Maine.

**ALLEGED SHIPMENT:** On or about September 8, 1943, from the State of Maine into the State of Massachusetts.

**VIOLATION CHARGED:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** September 29, 1944. A plea of guilty having been entered, the defendant was fined \$200.

**7263. Adulteration of smoked fish fillets. U. S. v. 67 Boxes of Smoked Fillets. Default decree of condemnation and destruction. (F. D. C. No. 14675. Sample No. 68393-F.)**

**LIBEL FILED:** December 5, 1944, Northern District of Ohio.

**ALLEGED SHIPMENT:** On or about November 5, 1944, by the Galilee Fish Co., New York, N. Y.

**PRODUCT:** 67 15-pound boxes of smoked fillets, at Cleveland, Ohio.

**VIOLATION CHARGED:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

**DISPOSITION:** December 28, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

**7264. Adulteration and misbranding of canned salmon. U. S. v. 434 Cases and 72 Cases of Canned Salmon. Default decrees of condemnation and destruction. (F. D. C. Nos. 13970, 13971. Sample Nos. 78921-F to 78925-F, incl., 78928-F.)**

**LIBELS FILED:** October 23, 1944, Northern District of Illinois.

**ALLEGED SHIPMENT:** On or about July 20 and 21, 1944, by the Keystone Storage Co., from East Liverpool, Ohio.

**PRODUCT:** 434 cases, each containing 48 1-pound cans, and 72 cases, each containing 48 cans, of salmon at Chicago, Ill.

**LABEL, IN PART:** (Portion) "Canteen Cohoe Alsaka Salmon [or "Pot-O-Gold Brand Medium Red Fresh Alaska Salmon"] Distributed By Western Fisheries Company [or "Co."] Seattle, Wash"; (remainder) "Grade 1 [or "Golden Glow" or "Brookdale"] Salmon."

**VIOLATIONS CHARGED:** Adulteration, Section 402 (a) (3), the product consisted in whole or in part of a decomposed substance.

Misbranding (portion), Section 403 (e) (1), the article was in package form, and it failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; Section 403 (e) (2), it failed to bear an accurate statement of the quantity of the contents; and, Section 403 (i) (2), it was fabricated from two or more ingredients, salmon and salt, and its label failed to bear the common or usual name of each such ingredient.

**DISPOSITION:** December 12, 1944. No claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.